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## Current Issue Review

### TOBACCO SMOKING

**Laura C. Snowball**  
**James R. Robertson**  
*Law and Government Division*

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## TOBACCO SMOKING\*

### ISSUE DEFINITION

Over the past three decades, North America has witnessed a revolution in attitudes towards tobacco smoking. What was once considered a normal habit has become increasingly socially unacceptable. An ever-growing number of non-smokers are much less tolerant of smoking, and anti-smoking activists have become very vocal in their opposition to the habit. Governments and other organizations have become more receptive to lobbying efforts and are introducing bans and restrictions on smoking.

Since the 1960s, research has documented the health hazards of tobacco smoking. Originally, the emphasis was on the danger to the smoker, but in recent years studies have demonstrated that non-smokers are also at risk from inhaling environmental tobacco smoke (ETS).

While most experts and governments accept the scientific and medical evidence of the dangers of tobacco smoke, changes do not come easily. Both the Surgeon General in the United States and the Royal Society of Canada have concluded that tobacco is a highly addictive product and many smokers find it difficult, if not impossible, to stop smoking, even if they want to. Tobacco manufacturers, who have traditionally refused to acknowledge that any health risks have been proved to be associated with their product, are a powerful interest. The economic well-being of tobacco farmers must also be considered. Government policies have often been somewhat ambivalent; significant tax revenues are derived from tobacco, yet governments are increasingly concerned about the rising costs of treating the preventable illnesses that result from tobacco use. High taxes deter smoking, but also lead to smuggling and other illegal activities.

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Since 1988, the federal government has initiated a number of measures designed to reduce smoking, including the *Tobacco Products Control Act*, the *Non-Smokers' Health Act*, and the *Tobacco Sales to Young Persons Act*.

## BACKGROUND AND ANALYSIS

### A. Social Perceptions of Tobacco Use

When Europeans first explored the New World, they found the inhabitants smoking tobacco leaves and apparently deriving therapeutic benefits and pleasure from this activity. By the 17th century, European physicians were prescribing tobacco in various forms for medicinal purposes. Even after it was realized that these "cures" were ineffective, tobacco grew in popularity. In the 20th century, cigarettes and pipes came to be associated with sophistication, leisure and affluence; films and advertisements helped to popularize smoking and to develop its connotations of glamour. While traditionally smoking was associated with masculinity, in recent decades advertisers have successfully turned their attention to the female market. Only recently, when links between smoking and various health problems were discovered, did smoking begin to decline in popularity in western industrialized countries.

As long as smoking was viewed as a personal issue, people could argue that the government should not interfere with tobacco use. Since research results confirming the negative effects of second-hand smoke have become public, however, perceptions have changed considerably. The social costs of cancer deaths from second-hand smoke and the lost work time from smoke-related ailments have been publicized and there have been a growing number of complaints to workers' compensation boards and human rights commissions about smoke in the work environment. Smoking is less likely to be considered as a harmless pleasure than as socially unacceptable behaviour. Many now feel that it should be the object of government intervention and regulation.

The prevalence of cigarette smoking among children and adolescents has caused considerable concern for at least 50 years because nicotine is suspected of inhibiting physical as well as intellectual growth, is addictive, and causes long-term health risks. Adolescent smoking is

encouraged by peer pressure and is often perceived as a symbol of rebellion and adult status. Parents, teachers and youth workers have attacked the advertising industry for linking sexuality and sociability with smoking and thereby enticing young people to take up this habit.

#### B. Health Risks from Smoking and Second-Hand Smoke

Reports linking cigarette smoking with cancer began to appear in the 1920s, but it was not until after World War II that deaths from lung cancer became so numerous that systematic follow-up studies were initiated. Researchers were constrained by the fact that the most serious ill-effects of cigarette smoking appear only after an interval of 10 years or more, and establishing causation can be difficult. By the early 1960s, the risks of lung cancer were found to be substantially higher for cigarette smokers than for non-smokers, as were risks of coronary disease and stroke. The accumulating evidence of the ill-effects of smoking were publicized by the Royal College of Physicians in London in 1962, Health and Welfare Canada in 1963, and the Surgeon General of the United States in 1964.

In 1994, the result of a 40-year study in Great Britain indicated that smoking causes 24 different diseases. Research has linked cigarette smoking with increased risk of peptic ulcers, chronic bronchitis, emphysema, and cancer of the mouth, larynx, esophagus, pharynx, bladder, cervix and pancreas. Other recent studies have linked smoking to cataracts, pelvic inflammatory disease (PID), leukemia and gum disease, as well as to slower bone healing and back problems. Smoking during pregnancy has been found to retard the growth of the fetus and to lead to increased risks of stillbirth, neo-natal death, and low birth weight. Medical doctors and researchers are now very aware of the addictive nature of smoking. People in their teens or twenties often start to smoke and later find that they cannot easily stop. According to the U.S. Surgeon-General, tobacco is as addictive as heroin.

A July 1995 study by federal health authorities estimated that the annual deaths attributable to smoking in Canada at more than 45,000. This is 11% higher than previous estimates, as a result of improved statistical methods.

The 1995 Study projected increases in deaths among women attributable to smoking would increase by 24% from 1991 to 2000. In the last 20 years, the rate of lung cancer among

women has increased by five times; three out of four cases appear to be caused by smoking. A 1993 study by the University of Toronto indicated that women who smoke a pack of cigarettes a day for 40 years are on average 27 times more likely than non-smoking women to develop lung cancer, and that, in terms of lung cancer, it is about three times more dangerous for women to smoke than for men. In May 1994, Health Canada released statistics predicting that lung cancer will kill more women than breast cancer. These statistics correspond with the increasing prevalence of smoking among women.

Recent studies have also focused on the risk of heart attack. Among young men who smoke more than two packs a day, the risk of heart attack is over seven times higher than for non-smokers. For women smokers under 50, this risk is 10 times higher than for non-smokers in the same group. A Canadian study of women who smoke and take the birth control pill found that they were between eight and 39 times more likely than non-smokers to have heart attacks, taking into account such things as age and personal habits. Yet an October 1988 Gallup Poll found that adult respondents underestimated the risk of smoking, and 90% could not identify smoking as the leading cause of death in Canada.

According to the research, tobacco kills 13 times as many Americans as do hard drugs and eight times as many as automobile accidents. It has been estimated that smoking is a major contributing factor in 10 to 25% of deaths in Europe and the U.S., and in about 20% of deaths among Canadians aged 35 to 84. According to one recent study, smoking was responsible for one out of five deaths in Canada in 1989.

The World Health Organization has been particularly outspoken about smoking-related diseases as "important causes of disability and premature death," and in May 1986 it urged governments to declare war on smoking, which, it claimed, is responsible for at least one million deaths a year throughout the world. Other estimates of the worldwide health costs of tobacco place the number of deaths as high as 2.5 million per year or 5% of all deaths. In 1993, the World Bank reported that, if current trends continue, deaths from tobacco-related illnesses are projected to reach 10 million a year, or more than 10% of total deaths, by the second quarter of the next century. A 1994 study predicted that deaths from cigarettes are likely to triple over the next 25 years.

Smoking became an issue for non-smokers with the publication of studies finding that the spouses and children of smokers have increased risk of serious health problems. One study found that children with parents who smoke experience much higher rates of respiratory illness, including colds, influenza, bronchitis, asthma and pneumonia, as well as reduced lung capacity. A federal Health and Welfare Canada study concluded that the risk of lung cancer is as much as 3.4 times greater for non-smokers who are exposed to smoke in the home than for non-smokers who are not. The study found that one in five Canadians has a serious medical condition (such as asthma, emphysema, heart disease, or angina) aggravated by exposure to cigarette smoke. A major study by the Environmental Protection Agency in the United States was released in January 1993: it concluded that smoking is indeed a serious and substantial health risk for non-smokers, particularly children.

Some studies have claimed that a non-smoker who is exposed to second-hand smoke in the workplace for 20 years suffers the same ill-effects as a person who has smoked 10 cigarettes a day during the 20-year period. Second-hand smoke contains higher levels of cancer-causing chemicals than smoke inhaled by a smoker. Unfortunately, air filters do not remove these toxic substances. It is estimated that 330 non-smokers die each year in Canada from diseases attributable to exposure to tobacco smoke.

As more and more smokers try to quit, the number and variety of cessation programs and techniques have increased. In 1992, the nicotine patch became very popular. Available only by prescription, the patch delivers small doses of nicotine through the skin, thereby alleviating the withdrawal symptoms resulting from not smoking. There have been some reports of health problems associated with the patch, although these principally involve misuse, such as continuing to use tobacco products while wearing the patch. The current social unacceptability of tobacco smoke, however, means that public opinion is hostile to smokers and is unsympathetic to their plight.

### C. Trends in Smoking Behaviour

Smoking behaviour is measured in two major ways in government statistics: by the percentage of the population who smoke regularly and by the cigarette consumption per adult or per smoker. Over the last two decades, the global use of tobacco has increased by 75%. Even in

countries such as the United States, where the overall prevalence of smoking has declined, the per capita consumption of tobacco has increased by 20%. The trend to quit smoking in many western industrialized countries has continued since about 1970 and is most pronounced among men.

After rising every year for about 20 years, cigarette sales peaked in 1982, when Canadians bought 66.3 billion. **By 1989, this number had declined to 50.3 billion, and by 1995 to 50 billion.** In Canada, per capita sales of tobacco products among people 15 and older decreased by 29% from 1980 to 1989, a greater decline than in any other major industrialized nation. In 1994, a Statistics Canada survey found that 6.5 million Canadians 15 years and older, or approximately 30% of the adult population, are smokers.

A 1992 study by a professor at the Université de Montréal indicated that, while the use of tobacco is diminishing among the general population, the number of young people who smoke continues to grow. The author attributed this to the twin lures of tobacco: its use indicates "adult social status" and is also a "symbol of freedom." There is particular concern over the fact that tobacco use among teenage females has increased markedly more than use among teenage males.

The percentage of regular smokers over 15 years of age varies by province, with the highest in Quebec at 36% and lowest in British Columbia at 27% in 1985. People with university education are less likely to smoke than those with some high school education. Smoking behaviour also varies by occupation: professionals and those who have never worked for pay have the lowest rates, while miners, construction and transport workers have the highest. Greater reductions in smoking have taken place among professional people; this has led some to refer to smoking as increasingly a "working class habit."

According to a 1985 government study, smoking is particularly high among Inuit, Dene and Métis in the Northwest Territories. While 78.6% of Inuit women and 66.2% of Dene and Métis women smoke, only 37.2% of non-native women in the NWT do so. In the North, the percentage of smokers among native women is higher than among native men.

Although the anti-smoking movement has experienced some degree of success, the use of smokeless tobacco, or "snuff" has increased over the last two decades. In the U.S., this increase has amounted to 40%. Teenage boys especially are now using snuff, despite its link with

oral cancers. In Canada, the widespread use of snuff by young native males in the north has caused considerable concern. It should also be mentioned that the sales of fine-cut tobacco for rolling cigarettes doubled in the past ten years, a reflection, in part, of high taxes on manufactured cigarettes.

Low tar and nicotine cigarettes have been developed to reduce health hazards but they retain high levels of carbon monoxide. It has been suggested, however, that these cigarettes may actually cause people to smoke more in order to satisfy their addiction, and thus inhale greater quantities of carbon monoxide.

Anti-smoking advocates are now claiming that tobacco manufacturers, to compensate for lost markets in industrialized countries, are preying on Third World youth, using cigarettes as symbols of affluence and westernization in countries with no advertising guidelines or restrictions. Exports of tobacco products from Canada have increased substantially. According to the Food and Agricultural Organization of the United Nations, tobacco consumption is dropping by 1.1% a year in industrialized countries but increasing by 2.1% a year in the Third World.

A 1993 federal study indicated that cigarette consumption fell to 223.4 million cartons in 1991 from 295.3 million cartons in 1985, a decline of 24.3%. Even when increased sales of fine-cut tobacco and other legal domestic products and estimated smuggled tobacco are taken into account, the study concluded that tobacco consumption had declined by close to 20% from 1985 to 1991. A Gallup poll in June 1993 found that only 29% of Canadians reported having smoked within the previous seven days; this compares with 52% of Canadians who were regular smokers when the issue was first surveyed in 1974. Statistics Canada has also reported that domestic sales of cigarettes declined significantly between 1992 and 1993. At the same time, exports increased 88% during the first seven months of 1993, compared with the same period in 1992. These trends were recently reversed as a result of the February 1994 decision to reduce tobacco taxes drastically, as discussed below.

A federal government study released in November 1994 found that, while smoking patterns change, the number of smokers is inclined to remain about the same: for example, between May and August 1994, 1.7 million Canadians altered their smoking habits in some way -- for instance, by quitting or starting smoking, by changing from daily to occasional smoking or vice

versa; however, this did not significantly alter the number of Canadians who smoke, a figure that remains at about 6.5 million, or 30% of the population over 15 years of age.

#### D. The Anti-Smoking Movement

Until recently, the interests and concerns of Canadian non-smokers remained virtually unrecognized. Even people with serious allergies were left with the choice of avoiding smoky places or quietly tolerating smoke as best they could. Those who openly objected to tobacco smoke were often thought to be intolerant. As the negative health effects of smoking are publicized, however, the anti-smoking lobby has grown.

The financial cost of allowing smoking to continue is stressed by the anti-smoking movement. The direct health-care costs of dealing with smoking-related illnesses vary between 3% and 9% of all health care costs, depending on the country. In *Tobacco Control: A Blueprint to Protect the Health of Canadians*, Health Canada recently stated that more than 40,000 Canadians died in 1991 from tobacco use. In 1993, the estimated societal costs from smoking totalled about \$11 billion: \$3 billion was due to direct health care costs and \$8 billion to lost productivity, including forgone household income. Labour Canada has estimated that an employee who smokes costs his or her employer between \$2,308 and \$2,613 more to employ than his or her non-smoking counterpart. This figure includes the costs of absenteeism, increased health and life insurance premiums, and lost productivity.

The issue of medical care for smokers raises difficult ethical questions. Even though it is argued that the health problems of smokers are self-inflicted, few would argue that smokers are not entitled to any medical care. More problematic is the fact that smokers do not recover as well as non-smokers from some surgery, such as heart bypass operations. In August 1993, a British patient died after being refused heart surgery because he was a smoker. Most Canadian doctors urge smokers to quit before surgery. University Hospital in London, Ontario, denies some liver operations to smokers. With rising health costs, and reduced budgets, it is possible that these situations will increase in the future.

Opponents of smoking are demanding cleaner air in public buildings, restaurants, and at the workplace. They also criticize sponsorship of sports and cultural events by tobacco companies because it lends social acceptability to tobacco products and may make recipient groups dependent on tobacco use. Non-smoking groups have aggressively lobbied governments and conducted effective public relations campaigns such as that by Physicians for a Smoke-Free Canada which encouraged doctors to send postcards to Members of Parliament each time one of their constituents died of a smoking-related disease.

Advertising and promotion geared to teenagers, and sales of cigarettes to young people, especially in stores near schools, have been targets of the anti-smoking movement, since adolescence appears to be the most critical time for starting the habit. Concern has been expressed about the introduction of smaller and cheaper "kiddie packs" and "toddler packs" whose lower cost it is feared might encourage teenagers to experiment with cigarettes. Adolescents seldom internalize the meanings of warnings against tobacco, even though they can recite the risks. They seem to retain an illusion of their own immortality or believe that they will smoke for only a few years.

A 1985 study on smoking among Manitoba children found that the majority of daily smokers aged eight to 15 bought cigarettes in stores, despite the fact that it is illegal to sell cigarettes to children under 16. Studies in other Canadian locations have had similar results. Various provincial and municipal governments have attempted to regulate sales of tobacco products to minors, although until recently laws were seldom enforced.

**A 1995 Ontario survey found many teenagers in the 12 through 17 year-old age group were able to link brand-name promotion of sports and cultural activities to tobacco products. When asked, they were able to identify "Players Ltd." as both a sponsor and a cigarette brand. This is the age group most likely to begin smoking.**

Although the tobacco industry agreed to a voluntary code on advertising in 1972, it continued to advertise heavily. Tobacco companies argued that as long as cigarette smoking is legal, cigarette advertising should also be legal, and that, in any event, cigarette advertising is aimed at persuading existing smokers to switch brands rather than to encourage non-smokers to start. Against this, it was suggested that advertising is used to recruit new smokers to replace those

who quit or die, and that it sells tobacco by associating it with a lifestyle or image. Opponents argued for a ban on advertising tobacco products as well as anti-smoking campaigns and higher cigarette taxes. Other suggested anti-smoking measures include generic packaging for all cigarettes and a prohibition on drug store sales of tobacco products. In response to public lobbying, an increasing number of transportation companies have banned smoking, and some insurance firms have reduced the premiums for home and life insurance for non-smokers. **Following the Supreme Court's 1995 decision in *RJR-MacDonald*, which struck down most of the laws prohibiting tobacco advertising, the tobacco industry again agreed to a voluntary code. Accusations that the Code was being breached soon followed, however.**

Some opposition to the anti-smoking movement continues. A lobby group to protect the rights of smokers, The Smokers' Freedom Society, was launched in 1986 to fight high taxes and government intervention in the industry and to "restore the respectability of smoking." Partly funded by the tobacco industry, the Society was active in opposing government taxes on tobacco products and municipal anti-smoking bylaws. **The Society no longer exists.**

In June 1988, Bill C-51, which prohibits the advertising and promotion of tobacco products and regulates their labelling, received Royal Assent. The Canadian Tobacco Manufacturers' Council challenged the legislation in court as a violation of freedom of expression under the *Canadian Charter of Rights and Freedoms*. The initial decision of the Quebec Superior Court struck down the Act. Ultimately the case was decided by the Supreme Court of Canada: all of the prohibitions on advertisement and promotion of tobacco products (except the prohibition on the free distribution of such products) were found to be unconstitutional restrictions on free expression.

Anti-smoking advocates have successfully argued for higher taxes on tobacco products, as a further deterrent to smokers. In response, the tobacco manufacturers launched a tax protest in early 1991, with national advertising and cards in cigarette packages that could be signed and sent to the Minister of Finance. The high taxes on Canadian cigarettes also exacerbated cross-border shopping for tobacco products, and were partly responsible for the smuggling each year of cigarettes worth \$500 million. Studies appeared to support the contention that higher taxes reduce cigarette consumption. The tobacco manufacturers, however, questioned the directness of

the link. Higher taxes also increased sales of fine-cut tobacco (for roll-your-own cigarettes) and the export of tobacco products, many of which were smuggled back into Canada.

In recent years, the tobacco industry has also been affected by fear of product liability. In the United States, aggressive lawsuits have sought damages for illnesses or death allegedly caused by smoking. **As of late 1995, the states of West Virginia, Florida, Minnesota and Mississippi had filed suits.** Although tobacco companies have lost few cases to date, plaintiffs' lawyers are now more optimistic because of increasing evidence associating tobacco products with a variety of ailments. Moreover, **in March 1996 one of the five major U.S. tobacco companies settled out of court on a number of pending anti-tobacco lawsuits, thereby breaching the industry's united front.** Tobacco manufacturers could lose millions of dollars as a result of such lawsuits.

**In Canada, an action was initiated in the Ontario Court of Justice, General Division, in 1995. The plaintiffs are seeking to have the action certified as a class action suit. The statement of claim includes allegations of negligence, strict products liability, failure to warn, deceit, negligent misrepresentation, breach of implied warranty and conspiracy.**

**In August 1995, U.S. President Bill Clinton declared that cigarettes and smokeless tobacco are delivery devices for nicotine, which is an addictive drug.** The President proposed wide-ranging new regulations curtailing the marketing, promotion and sale of cigarettes to those under 18 years of age. Cigarette manufacturers immediately filed lawsuits, and advertising organizations condemned the restrictions as censorship. Anti-smoking advocates in Canada hope that the Canadian government will be pressured into following suit.

**The period for receiving comments on the new regulations expired in January 1996. In August 1996, President Clinton announced the final form of the regulations, which include classifying nicotine as an addictive drug and making it more difficult to market and sell tobacco products, particularly to children. Notably, retailers will have to verify, by photo ID, the age of anyone under 27 years of age who purchases tobacco products. The regulations will also force the tobacco companies to contribute \$150 million (U.S.) each year towards an anti-smoking campaign directed to teens. In order to demonstrate that the**

regulations have been narrowly targeted as required, however, vending machines and self-service displays will be allowed in adult-only facilities, mail-order sales will be permitted, and advertising in colour and using imagery will be allowed in adult-only facilities, provided it is not visible from outside. Unrestricted advertising will be allowed in publications primarily read by adults, and tobacco companies will be able to sponsor activities in the corporate name only. Most of these regulations will come into force on 28 August 1997.

#### E. The Tobacco Growing Industry

Ontario grows almost 90% of Canada's tobacco crop. In recent years, production has exceeded demand and millions of pounds of tobacco are being kept in storage. Tobacco manufacturers are buying less tobacco from farmers because of declining domestic sales of cigarettes, which they blame mainly on rising government taxes and increased foreign competition for the export market. Canadian tobacco farmers want a national marketing board to help maintain prices and to find new markets in Canada and abroad. They also expect substantial federal and provincial assistance to find other sources of income and alternative crops. Rationalization and diversification of crops have maintained profits for some tobacco farmers, but Canadian communities dependent on tobacco growing are now suffering financially.

The problem for the declining tobacco farming industry is not lack of alternative crops that will grow in the sandy soil of southern Ontario. The real issue is that the market for none of these alternative crops -- tomatoes, soyabeans, peanuts, garlic, ginseng -- is as lucrative as tobacco was, or is with government price supports. In recent times, tobacco returns have averaged about \$4,000 per acre, 10 times the return of alternative crops.

In 1986, Agriculture Canada established a \$30 million program to help tobacco farmers diversify. The Ontario Flue Cured Tobacco Growers' Marketing Board, however, asked for \$200 to \$300 million from government cigarette taxes for this purpose. Even so, many growers have left tobacco farming in the past few years as sales dropped, profits declined, and debts mounted. A federal-provincial exit program in Ontario now pays farmers to stop planting tobacco.

In October 1988, the federal government added \$30 million to this program and an additional

\$5 million for farmers outside Ontario. Nevertheless, in 1989 a group of Ontario tobacco farmers called Fair Compensation for Tobacco (FACT) started lawsuits against both the federal and Ontario governments to seek compensation for damages to their industry caused by rising tobacco taxes.

**In September 1996, it came to light that the federal Department of Agriculture and Agri-Food Canada was contributing funding to research aimed at developing better tobacco crops.**

#### F. Government Action

##### 1. Workplace Initiatives

Since 1976, many municipal governments across Canada have passed by-laws prohibiting smoking in non-residential buildings and public transportation. Several city governments have also tackled the thorny issue of smoking in the workplace. San Francisco's by-law prohibiting smoking in the workplace except in designated areas and allowing anti-smokers to complain to the Board of Health in cases of non-compliance became an example to other jurisdictions. In Canada, many municipalities followed Toronto's lead and announced that smoking in the workplace would be confined to designated areas with special ventilation systems. The Quebec government banned smoking in most public buildings, except designated areas, as of 1 January 1987. The Ontario government passed Bill 194, An Act to restrict smoking in workplaces, in July 1989.

In December 1985, an adjudicator for the Public Service Staff Relations Board concluded that the federal Department of Health and Welfare was breaching its collective agreement by not protecting its employees from cigarette smoke, which can be considered a "dangerous substance." The federal government successfully appealed this decision, however, as tobacco smoke is not deemed to be a hazardous product under the law.

On 22 April 1987, the federal government announced a series of measures designed to discourage tobacco smoking. In addition to Bill C-51, most of these initiatives were directed at smoking in workplaces under federal jurisdiction. As of 1 October 1987, the federal government banned smoking at service counters, waiting rooms, desks and wickets serving the public in federal

government buildings, and restricted to designated areas in public service workplaces. On 1 January 1989, the federal government banned smoking by federal public servants in all areas of federal buildings. The Correctional Services of Canada is instituting a non-smoking policy in all federal prisons as of 1998.

Banning smoking in the workplace has continued to be controversial. If smoking is a physical and psychological addiction, it may be difficult to give up, especially in a stressful work environment. If employees who smoke regularly adjourn to the designated smoking area, can they be expected to be as productive as they were when they could smoke and work at the same time? Another problem with preventing smoking in the workplace is that most ventilation systems recycle air, and can thus distribute smoke throughout the building. Creating a completely separate ventilation system for a smoking room is considered too costly by most employers, especially in the present economic climate.

## 2. Federal Legislative and Regulatory Developments

### a. Tobacco Products Advertising

The *Tobacco Products Control Act*, which received Royal Assent in June 1988, provided the authority for banning all tobacco advertising and the imposition of restrictions and gradual phasing out of promotional activities and sponsorship by tobacco manufactures, and the requirement of more explicit health warnings on tobacco product packages.

In June 1989, the Health and Welfare Minister said that no warnings about tobacco and addiction could be put on packages of cigarettes until the government had determined for certain that there was a link between the two. The Royal Society of Canada was given \$30,000 to study the relationship between smoking and addiction, despite the fact that reputable American scientists claimed to have already established such a link. The Royal Society reported in October 1989 that tobacco was indeed addictive. From that date until the September 1995 Supreme Court of Canada decision in *RJR-MacDonald*, the federal government required tobacco manufacturers to place explicit health warnings on their packaging.

*RJR-MacDonald* was the court case in which the tobacco companies challenged the legislation. In 1991, the Quebec Superior Court ruled that the *Tobacco Products Control Act* intruded on provincial legislation and violated the tobacco companies' right to freedom of expression guaranteed by the Charter. In January 1993, however, the Quebec Court of Appeal overturned this decision, holding that the ban was an appropriate response to the smoking problem, even in the absence of conclusive proof that a prohibition on advertising would reduce smoking. The tobacco companies appealed the decision to the Supreme Court of Canada. They sought an exemption from compliance with the regulations until the Court had disposed of the appeal, but the Court, in March 1994, rejected the arguments.

As of September 1994, tougher and more prominent health warnings were required on cigarette packages. In late September 1995, however, the Supreme Court released the appeal decision in *RJR-MacDonald*, striking down all the challenged advertisement and promotion prohibitions, with the exception of the law prohibiting the distribution of tobacco products without charge.

Although a majority of the Court held that the legislation was properly part of the federal legislative sphere, the Court also held, by a margin of 5 to 4, that all of the prohibitions on advertisement and promotion (with the above-noted exception) were unconstitutional restrictions of the Charter-guaranteed freedom of expression. The key to this decision was the Court's finding that the laws were more severe than was proven necessary to meet Parliament's goal of reducing advertising-related consumption.

The critical flaw in the labelling law was the "unattributed" nature of the health warnings, reasonably seen as compelled expression by the tobacco companies themselves. The critical flaw in the advertising ban was that it included both "lifestyle" and purely informational advertising. The Court found that the latter was not an inducement to smoke, as it simply provided comparative brand information for existing smokers. The rational linkage between the use of logos on non-tobacco merchandise and tobacco consumption was dubious.

The government failed to establish to the Court's satisfaction that less severe laws, such as an advertising ban limited to "lifestyle" advertising or to advertising targeting young persons, and mandatory but "attributed" health warnings, would not have had the same desired

effect on advertising-related consumption. This failure was compounded by the fact that the government refused to bring into evidence more than 500 documents requested by the appellant tobacco companies, including at least one document known to pertain to a study of alternative measures.

This decision received considerable media attention. The Canadian Tobacco Manufacturers' Association indicated its willingness to continue to abide by the provisions of the Act for the time being. The federal Minister of Health stated that the Court's decision, and the government's options, were under study. Other interested groups have argued either that the impugned legislation should be re-enacted and protected by the "notwithstanding" clause or that tobacco advertisement and promotion should be prohibited under the federal *Hazardous Products Act*. **The tobacco industry adopted a voluntary code of ethics relating to advertising, but by early 1996 there were allegations that this code was unenforceable and was in fact being violated.**

In December 1995, the Minister of Health released *Tobacco Control: A Blueprint to Protect the Health of Canadians*, providing the general outlines of the government's plans for new legislation. The reinstatement of health messages and toxic constituent information on tobacco product packaging, accompanied by a rule allowing for attribution of the messages, is described as "an important first step in rebuilding the government's strategy." According to the Blueprint, the government's intentions include:

- implementing "the most comprehensive prohibition on advertising possible";
- restricting promotion by such means as prohibiting cross-advertising between tobacco and non-tobacco products, and prohibiting tobacco product testimonials and personal endorsements;
- minimising "lifestyle" advertising and promotion by limiting both form and content of publicity relating to tobacco company sponsorship of activities, events or venues, and by requiring the prominent display of health warnings on such advertising as is permitted;
- further restricting access to tobacco products by underage purchasers by prohibiting self-service displays and mail order sales;

- prohibiting nearly all forms of advertising and promotion at point of sale and limiting product sale displays;
- introducing regulations requiring changes to tobacco products such as lowered yields of tar and other toxic constituents; and
- increasing reporting requirements for tobacco manufacturers, distributors and importers.

New legislation addressing health and toxic contents warnings on tobacco product packaging was introduced for first reading on 12 December 1995. Bill C-117 would amend the labelling provisions in the *Tobacco Products Control Act* which were struck down by the Supreme Court of Canada in the *RJR-MacDonald* decision (see Legislative Summary LS-232E). Although certain other minor adjustments would be made to the Act, none deals with the other advertising and promotion provisions struck down by the Court.

The bill would mandate prescribed messages about the health effects of the product, of the product's toxic constituents, and of the smoke produced, as well as a list of the toxic constituents and their quantities. The package would have to contain a leaflet addressing the health effects and listing the toxic constituents of the product. Respect is paid to the Supreme Court of Canada decision in that the distributor of the tobacco products would be allowed to "attribute" the messages and leaflet information about health effects to certain entities prescribed by regulation.

### **b. Tobacco Sales to Young Persons**

On 4 February 1993, the Minister of National Health and Welfare, the Hon. Benoît Bouchard, introduced Bill C-111 (now the *Tobacco Sales to Young Persons Act*) in the House of Commons. This Act replaced the antiquated *Tobacco Restraint Act*, raised the minimum age for buying tobacco products from 16 to 18, and imposed fines of up to \$50,000 on those selling tobacco to persons below that age. It also severely restricted the placement of vending machines. As Bill C-111 the Act received widespread support and positive reaction from politicians, the media, and even tobacco manufacturers, although small retailers and vending machine operators expressed reservations. The bill was quickly passed by the House of Commons and Senate, and

received Royal Assent on 25 March 1993. It was proclaimed in force on 8 February 1994. Its contents are discussed more fully in Library of Parliament Legislative Summary LS-163E.

### c. Plain Packaging

In March 1994, the House of Commons Standing Committee on Health began a study of the issue of plain packaging of tobacco products. The Minister of Health, the Hon. Diane Marleau, expressed her support for the idea, as did several provincial ministers of health and some groups. Others, however, questioned the constitutionality and legality of requiring plain or generic packaging for tobacco products.

In June 1994, the Committee issued its report, in which it recommended that "prudence should be exercised" in introducing plain packaging because of constitutional concerns; the Committee felt that there was a need for clear evidence that stripping cigarette packages of colour and trademarks would help reduce smoking, especially among young people. On 18 November 1994, the government tabled its response to the Committee report indicating that it agreed with the Committee that generic packaging of tobacco products could be a considerable step in reducing incentives to smoke, especially for young people. It also stated that it wanted to review the findings of a study being conducted by an expert panel which is evaluating the role of packaging in inducing the purchase of tobacco products. The government also said that it was examining the legal, international trade, economic and contraband implications of product packaging modifications. Provinces and territories attending the September meeting of health ministers expressed support for generic packaging. A resolution calling on countries to promote generic packaging as a means of reducing incentives to smoke was also adopted at the Ninth World Conference on Tobacco and Health held in Paris.

In May 1995, the Minister of Health released the government's \$500,000 report on plain packaging. While acknowledging that it is impossible to prove conclusively that plain packaging would get smokers to quit or to deter young people from starting, the report concluded that generic cigarette packages would reduce cigarette consumption. The Minister, the Hon. Diane Marleau, however, indicated that there are difficult legal, political and economic battles to be

fought before generic packaging becomes law, and she declined to predict whether or when legislative action would be forthcoming.

**d. Regulating Nicotine Content**

In April 1994, the Canadian Tobacco Manufacturers' Council released a list of 13 chemicals that are added to cigarettes sold in Canada. U.S. tobacco manufacturers had previously announced that 600 additives were used in American cigarettes and concerns had been expressed in both Canada and the United States that manufacturers might be adding nicotine to their products to increase addiction. While the Canadian manufacturers admit to adjusting the blend of tobaccos, they deny adding nicotine itself. In November 1994, it was announced that a federal Department of Health study had found a cancer-causing compound (4-amino-biphenyl) in the smoke of domestic cigarettes. Recently, concerns have been expressed over the use of terms such as "smooth" and "additive-free" on cigarette packaging.

**Bill S-5, An Act to restrict the manufacture, sale, importation and labelling of tobacco products, was introduced in the Senate on 19 March 1996, and received second reading on 21 March 1996.** A principal focus of the bill is the nicotine and potential tar content of tobacco products consumed by smoking. In summary, for all domestically manufactured and imported tobacco products, the intent is to set maximum levels of inhalable nicotine and tar (per gram of tobacco), and to set a minimum non-reconstituted tobacco level and a maximum additive level in tobacco product formulations. On package labelling and in product advertising, the bill would mandate the display of nicotine and potential tar content (per gram of tobacco) and cancer and nicotine addiction warnings. In doing this, the bill also seeks to increase public awareness of the hazards of tobacco use by requiring that these be communicated to users of tobacco products. (This bill is discussed in greater detail in Legislative Summary LS-250, 25 April 1996).

**e. Smoking on Aircraft**

In November 1986, the Transport Minister announced that smoking on all Canadian aircraft would be banned during flights of two hours or less. In September 1987, it was decided

that this regulation would be effective on 9 December 1987, with fines up to \$5,000 for passengers who continued to smoke and \$25,000 for airlines which failed to enforce the ban. The United States placed a similar ban, effective April 1988, on U.S. domestic flights of two hours or less. In September 1988, Air Canada broadened its ban to cover all North American flights, and flights to Hawaii and Mexico.

As of 1 July 1994, Canada banned smoking on all international airplane flights, thus becoming the first country to have banned smoking on both domestic and international flights over its territory. The ban also applies to charters and commercial group flights. In November 1994, Canada, the United States and Australia agreed to ban smoking on all non-stop international flight between the three countries.

### 3. Provincial Initiatives

Provincial governments, like the federal government, also increased taxes on tobacco products, partly to obtain revenue but also to discourage tobacco use. Because of rising health care costs, this had become an increasing priority for several provinces.

Provincial governments also took other anti-smoking initiatives. British Columbia, for instance, introduced enabling legislation to require the licensing of retail outlets that sell tobacco products, and to permit the suspension of the licences of retailers who sell cigarettes to children. In 1993, the Nova Scotia government also announced anti-smoking initiatives.

In 1994, the province of Ontario enacted a range of measures to restrict the use of tobacco as part of its goal to reduce smoking in the province by 50% by the end of the decade. The province's new anti-smoking Act prohibits sales of tobacco in pharmacies and other health facilities, outlaws vending machines, raises the legal age for purchase of tobacco from 18 to 19, and prohibits smoking in all health facilities except residences such as nursing homes. The legislation imposes higher fines for selling cigarettes to minors and allows the province to impose generic packaging for all tobacco products sold in the province. The Act has been described as the toughest tobacco control legislation in North America.

**In July 1996, the Toronto City Council passed a controversial by-law outlawing smoking in all restaurants, bars and entertainment facilities as of 1 January 1997. Similar but less extensive measures have been enacted elsewhere in Canada: certain other Ontario municipalities are also eliminating smoking in restaurants; Vancouver has prohibited smoking in public areas open to children, including restaurants; and in Victoria all hospitality establishments must be 60% non-smoking by September 1996 and 100% non-smoking by January 1999. On 8 October 1996, Toronto City Council modified its ban: smoking will be allowed in entertainment facilities, provided it takes place in enclosed, separately ventilated rooms which must amount to less than 25% of the facility's total seating capacity.**

#### **4. Smuggled Cigarettes**

By the end of 1991, 12.5% of Canadian production was being exported to buyers outside Canada -- what the tobacco lobby calls the "tax-exempt market." The RCMP estimated that four out of every five cartons were re-imported illegally into Canada, where they were sold without the domestic taxes. In February 1992, the federal government imposed a \$1 a pack export tax on cigarettes; this was intended to discourage a thriving trade in contraband Canadian cigarettes. The tax was withdrawn in April 1992 under pressure from the tobacco companies, who threatened to move production to the United States. Federal and provincial taxes on tobacco products, which had increased relentlessly since the late 1980s, had been successful in discouraging smoking, but had also fostered a flourishing underground economy. According to a study commissioned by the Canadian Tobacco Manufacturers Council, one in nine cigarettes bought in Canada in 1991 was either stolen or smuggled across the border, producing an estimated tax loss of \$1.1 billion. This represented a five-fold increase from 1990. Discussions began on whether to re-introduce an export tax or, conversely, to lower taxes on tobacco in an attempt to curb the burgeoning contraband cigarette trade.

Cigarette smuggling became an increasing problem, particularly on certain native reserves on or near to the Canada-U.S. border. It was estimated that 70% of smuggled cigarettes

were passing through the Akwesasne Reserve near Cornwall, Ontario, where a number of violent incidents allegedly related to smuggling occurred in the summer and autumn of 1993.

The growing concern about contraband cigarettes was prompted by the violence involved in smuggling, as well as the loss of tax revenues to governments and the reduced sales by legitimate businesses. Various politicians, particularly in Quebec, suggested that a reduction in taxes on tobacco should be considered as one way of curbing the contraband cigarette trade. It was argued that by decreasing the price differential between legal and contraband Canadian cigarettes, the market for illegal products could be eliminated. Concerns were also raised about the direct and indirect costs, including police costs, of combatting cigarette smuggling. Against this, anti-smoking groups argued that price is an important deterrent to tobacco usage, which might tend to be encouraged by a reduction of taxes. It was also pointed out that in Europe tobacco taxes are higher than they are in Canada. The situation in Canada, though, was complicated by the proximity of the Canadian-U.S. border, and an apparent ineffectiveness or unwillingness to stop illegal shipments.

In November 1993, the Ontario government announced measures designed to deter tobacco smuggling. These included increased fines and penalties and new police powers. The province estimated that smuggling was costing it up to \$250 million in lost taxes annually. Critics argued that, rather than dealing with the effects of smuggling, the province should be dealing with the causes; that is, it should try to eliminate the conditions that make contraband attractive in the first place.

On 8 February 1994, the federal government announced a series of measures designed to combat cigarette smuggling. These included a \$5-a-carton federal tax cut for cigarettes and an offer to match any provincial tax cuts of more than \$5 to a maximum of another \$5; the re-imposition of an \$8-a-carton tax on tobacco exports; a surtax on tobacco manufacturers' profits; an enhanced enforcement program, including more customs inspectors and RCMP anti-smuggling agents; and the launching of a comprehensive anti-smoking advertising campaign. The government also used the opportunity to proclaim in force the *Tobacco Sales to Young Persons Act*, and agreed to look at regulations requiring generic packaging and full disclosure of additives.

The government's decision was highly controversial. Most provincial governments, with the exception of Quebec, were critical, and did not immediately reduce their own taxes, although some subsequently did so. The tax cuts angered health groups, who argued that taxes constitute a major disincentive to smoking, and that other measures could have been used to reduce smuggling. Questions were also raised about the full costs of the plan, including forgone revenues, and the effects on health costs. According to the government, however, cigarette smuggling had become a \$5-billion business, with 66% of cigarettes bought in Quebec and 40% of those bought nationally being illegal. It also argued that organized crime controlled 95% of contraband tobacco, tax revenues were being lost at an increasing pace, the social costs were unacceptable, and lower-priced illegal cigarettes were already undermining the anti-smoking policies of the federal and provincial governments.

The long-term effects of the government's anti-smuggling initiatives are still unclear. According to Statistics Canada, the prices of cigarettes fell by an average of 36.6% across Canada in 1994, the only reported decline since 1954. The decline was even more precipitous in the provinces that matched the federal government's lower taxes.

Tobacco shipments by Canadian manufacturers rose about 5% in 1994, including both domestic and export sales. Manufacturers shipped the equivalent of 56.8 billion cigarettes in 1994, compared to 54 billion in 1993. Both exports and domestic sales must be taken into account since, during the height of the smuggling crisis, tobacco companies were exporting to the United States enormous quantities of cigarettes, nearly all of which were re-entering Canada illegally. As the contraband market dried up, so too did the exports.

Domestic sales increased after the tax reductions; however, it is not clear whether this was because smokers were once again legally buying tobacco products in Canada, rather than using smuggled products, or because more people were taking up smoking (or taking it up again) in response to lower prices. A June 1994 survey carried out by the York University Institute for Survey Research on behalf of the Addiction Research Foundation indicated that, for the first time in three decades, tobacco use was on the increase, with most new smokers being women. In November 1994, however, Statistics Canada released a survey concluding that smoking prevalence had actually declined somewhat between May and August 1994, but a report from the federal

Department of Health in February 1995 found that smoking levels were higher in 1994 than in the previous year. A 1995 survey entitled *A Study on Youth Smoking*, carried out jointly by the University of Toronto, University of Illinois at Chicago, and the Addiction Research Foundation found that underage teenagers are smoking more in the wake of the tobacco tax rollback in February 1994.

Statistics collected by Health Canada confirmed that price is the most important factor in determining smoking levels. In 1990 when cigarette taxes were consistent across the country, so were smoking levels. In 1994, however, five provinces matched federal tax cuts with the result that cigarette prices varied from \$2.50 to \$5.00 across the country. While smoking levels have declined across the country, the decline was considerably greater (20%) in those provinces with higher prices than in those that had the lowest taxes (4%).

In February 1995 the price of a carton of cigarettes increased slightly -- by about \$1.20 -- as a result of increases in federal and provincial taxes. There are reports that the smuggling of tobacco products across the border has been increasing since that time.

#### PARLIAMENTARY ACTION

1. The Isabelle Report (1970) of the House of Commons Committee on Health, Welfare and Social Affairs contained recommendations on restricting the advertising and promotion of tobacco products.
2. Bill C-248, to ban the advertising of tobacco products, was introduced by the government in June 1971 but never debated. Instead, the tobacco industry and the government agreed to voluntary guidelines.
3. Effective April 1986, the *Canada Labour Code* was amended to contain occupational health and safety provisions that would make it easier for workers to refuse dangerous work. Tobacco smoke was not specifically mentioned as a threat to health, but in October 1986 a decision by Labour Canada upheld the right of an Air Canada employee to refuse to work in a smoke-filled trailer.

4. Bill C-204, the Non-Smokers' Health Act, was introduced on 6 October 1986. It proposed regulating smoking in the workplace and on common carriers under federal jurisdiction, as well as amending the *Hazardous Products Act* in relation to cigarette advertising. This Private Member's bill, introduced by Lynn McDonald, passed second reading and was sent to committee, where it was debated for nine months. On 11 February 1988, it was approved with amendments and on 31 May 1988 it passed third reading; though it received Royal Assent in June 1988, it was not proclaimed at that time (see note 8, below). (See Library of Parliament Legislative Summary No. LS-18)
5. Bill C-51, to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products, was introduced by the Minister of Health and Welfare on 30 April 1987. On 31 May 1988, the bill passed third reading. It received Royal Assent in June 1988. (See Library of Parliament Legislative Summary No. LS-4) The legislation has been challenged in the courts by the Canadian tobacco companies.
6. On 31 March 1989, the Speaker of the House of Commons announced that, effective 14 August 1989, employees of the House of Commons and visitors to Parliament Hill would no longer be permitted to smoke in the Parliament Buildings. Smoking was also to be banned by the same date in all premises occupied by the Library of Parliament. Members of Parliament might continue to smoke and to allow their staff to smoke in their own offices, however, even though employees of the House of Commons would not be allowed to do so. In addition, smoking would still be permitted in a portion of the Parliamentary Restaurant and the press room in the Centre Block.
7. On 18 May 1989, first reading was given to Senate Bill S-6, An Act to amend the Tobacco Restraint Act and to amend the Tobacco Products Control Act. This bill would have raised the fines for selling tobacco products to anyone under the age of 18, and made it an offence to operate a tobacco vending machine. The motion for second reading of the bill was defeated on 24 October 1989, and the bill was withdrawn from the order paper.
8. Bill C-27, an Act to amend the Non-Smokers' Health Act (formerly C-204), was introduced in the House of Commons on 16 June 1989; it passed through the Senate and was given Royal Assent on 29 June 1989. This bill made technical amendments to Lynn McDonald's

Private Member's bill, including the clarification of terms and the provision of enforcement procedures.

9. The *Tobacco Sales to Young Persons Act* (Bill C-111) was given Royal Assent on 25 March 1993. It was designed to reduce smoking among young people by raising the minimum age for purchasing tobacco products to 18 and restricting the location of vending machines. It was proclaimed in force in February 1994. (See Library of Parliament Legislative Summary No. LS-163)
10. On 8 February 1994, the Prime Minister, Jean Chrétien, announced measures to reduce cigarette smuggling, including reductions in federal taxes on cigarettes, an export tax, a surtax on tobacco manufacturers' profits, increased enforcement, and a major advertising campaign aimed at young people and parents. The *Tobacco Sales to Young Persons Act* was also proclaimed in force. Bill C-11, An Act to amend the Excise Act, the Customs Act and the Tobacco Sales to Young Persons Act, was introduced in the House of Commons on 10 February 1994 and received third reading on 14 June 1994 (see Library of Parliament Legislative Summary LS-188).
11. On 12 December 1995, first reading was given to Bill C-117, An Act to amend the Tobacco Products Control Act. This bill would reinstate health and toxic constituent warnings on and in tobacco product packaging, but would allow for the "attribution" of such warnings.
12. On 19 March 1996, first reading was given to Bill S-5, An Act to restrict the manufacture, sale, importation and labelling of tobacco products; second reading was given to the bill on 21 March 1996. A principal focus of the bill is the regulation of the inhalable nicotine and tar content of tobacco products to be consumed by smoking. The bill would also require warnings about cancer and nicotine addiction on packaging and in advertising.

## CHRONOLOGY

1908 - *The Tobacco Restraint Act* made it illegal to sell tobacco products to anyone under 16 years of age. This law has not been enforced in at least 45 years.

- 1962 - Report of the Royal College of Physicians in London providing research evidence of the harmful consequences of smoking.
- 1963 - Health and Welfare Canada linked cigarette smoking and lung cancer in a report.
- 1964 - Report of the United States Surgeon General on medical consequences of smoking.
- 1970 - World Health Assembly adopted its first anti-smoking resolution calling upon governments to act against smoking as an avoidable cause of death.
- 1970 - The House of Commons Committee on Health, Welfare and Social Affairs recommended a ban on tobacco advertising and promotion.
- June 1971 - The government introduced Bill C-248 to ban advertising of tobacco products, but the bill was never debated.
- 1982 - Health and Welfare Canada launched an anti-smoking campaign.
- January 1985 - The Minister of Fitness and Amateur Sport announced an end to sponsorship of amateur sports events by tobacco companies.
- February 1985 - Treasury Board announced voluntary guidelines on smoking in the workplace by federal public servants.
- October 1985 - Health and Welfare Canada launched a \$1.5 million anti-smoking campaign aimed at youth.
  - The Minister of Agriculture gave \$90 million to tobacco farmers as price support.
- October 1986 - Two bills were introduced by Private Members to control smoking in federal buildings.
- November 1986 - Air Canada introduced trial smoke-free flights on certain routes.
- December 1986 - The U.S. Surgeon General's Report attacked passive smoke as a major health hazard and urged bans on smoking in the workplace.
- February 1987 - Agriculture Canada set up a \$15 million program to help tobacco farmers diversify.

April 1987 - New restrictions were announced for smoking in workplaces under federal jurisdiction.

- The Minister of Health and Welfare introduced Bill C-51 to prohibit the advertising and promotion of tobacco products.

September 1987 - Transport Canada banned smoking on all Canadian airline flights of two hours or less, effective December 1987.

October 1987 - Smoking was restricted to designated areas in public service workplaces.

May 1988 - Bill C-51 and Bill C-204 both passed third reading in the House of Commons on 31 May 1988.

June 1988 - Both Bill C-51 and Bill C-204 were given third reading by the Senate on 28 June 1988, and received Royal Assent on the same date. The bills came into force on later dates.

January 1989 - Federal public servants were prohibited from smoking anywhere in most federal buildings as of 1 January 1989.

March 1989 - The Speaker of the House of Commons announced a smoking ban on Parliament Hill starting August 1989, but MPs and their staff could continue to smoke within their own offices.

June 1989 - Bill C-27, which amended C-204, was given Royal Assent.

1989 - As of 31 October, all tobacco product packages were required to carry one of four specified health warnings.

January 1990 - The federal Minister of Health and Welfare proposed tougher and more prominent health warnings on tobacco product packages, effective 1 June 1991.

July 1991 - The Quebec Superior Court held that the *Tobacco Products Control Act* was unconstitutional. This decision was appealed by the federal government: *RJR-MacDonald Inc. v. Canada*, 82 D.L.R. (4th) 449.

January 1993 - The Quebec Court of Appeal, overturning the decision of the Quebec Superior Court, upheld the constitutionality of the *Tobacco*

*Products Control Act.* The case was appealed to the Supreme Court of Canada, which heard it in November 1994.

March 1993 - The *Tobacco Sales to Young Persons Act*, which received speedy passage through the House of Commons and Senate, received Royal Assent.

February 1994 - The federal government announced a series of measures to combat cigarette smuggling and proclaimed in force the *Tobacco Sales to Young Persons Act*.

July 1994 - Canada banned smoking on all international flights entering and leaving the country.

November 1994 - Bill C-11, an Act to amend the Excise Act, the Customs Act, and the *Tobacco Sales to Young Persons Act*, received Royal Assent.

September 1995 - The final decision in *RJR-MacDonald v. Canada* was rendered by the Supreme Court of Canada. The Court ruled that all the advertising and promotion restrictions in the *Tobacco Products Control Act*, with the exception of the law against distributing free tobacco products, were unconstitutional. The law was within federal legislative competence, but its infringements of the constitutional guarantee of freedom of expression could not be justified.

December 1995 - The federal Minister of Health and Welfare set forth the government's proposed strategy respecting tobacco products in *Tobacco Control: A Blueprint to Protect the Health of Canadians*. The Blueprint proposes "the most comprehensive prohibition on advertising possible."

Bill C-117, which would amend parts of the *Tobacco Products Control Act*, was given first reading.

March 1996 - Bill S-5, An Act to restrict the manufacture, sale, importation and labelling of tobacco products, received first and second readings (19 March and 21 March respectively).

July 1996 - Toronto City Council passed a controversial by-law outlawing smoking in all restaurants, bars, and entertainment facilities as of 1 January 1997.

**August 1996 -** U.S. President Bill Clinton announced new regulations, to come into force in August 1997, classifying nicotine as an addictive drug, and making the marketing and sale of tobacco products to children more difficult. Tobacco companies would be required to contribute \$150 million annually to anti-smoking campaign directed to teens.



